

1-1 By: Alvarado S.B. No. 2119
 1-2 (In the Senate - Filed March 7, 2019; March 21, 2019, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 April 8, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 2; April 8, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10		X		
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 2119 By: Lucio

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the transfer of the regulation of motor fuel metering
 1-22 and motor fuel quality from the Department of Agriculture to the
 1-23 Texas Department of Licensing and Regulation; providing civil and
 1-24 administrative penalties; creating criminal offenses; requiring
 1-25 occupational licenses; authorizing fees.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Subtitle A, Title 14, Occupations Code, is
 1-28 amended by adding Chapter 2310 to read as follows:

1-29 CHAPTER 2310. MOTOR FUEL METERING AND QUALITY

1-30 SUBCHAPTER A. GENERAL PROVISIONS

1-31 Sec. 2310.001. DEFINITIONS. (a) In this chapter:

1-32 (1) "Commercial weighing or measuring device" means a
 1-33 weighing or measuring device used in a commercial transaction.

1-34 (2) "Commission" means the Texas Commission of
 1-35 Licensing and Regulation.

1-36 (3) "Dealer" means a person who:

1-37 (A) is the operator of a service station or other
 1-38 retail outlet; and

1-39 (B) delivers motor fuel into the fuel tanks of
 1-40 motor vehicles or motor boats.

1-41 (4) "Department" means the Texas Department of
 1-42 Licensing and Regulation.

1-43 (5) "Motor fuel" has the meaning assigned by Section
 1-44 162.001, Tax Code.

1-45 (6) "Motor fuel metering device" means a commercial
 1-46 weighing or measuring device used for motor fuel sales.

1-47 (7) "Operator" or "user" means a person in possession
 1-48 or control of a weighing or measuring device.

1-49 (8) "Sell" includes barter or exchange.

1-50 (9) "Weighing or measuring device" means a scale or a
 1-51 mechanical or electronic device used to dispense or deliver a motor
 1-52 fuel by weight, volume, flow rate, or other measure or to compute
 1-53 the charge for a service related to motor fuel.

1-54 (10) "Weight or measure of a motor fuel" means the
 1-55 weight or measure of a motor fuel as determined by a weighing or
 1-56 measuring device.

1-57 (b) A reference to the weight of a motor fuel in this chapter
 1-58 is a reference to the net weight of the motor fuel.

1-59 Sec. 2310.002. ENFORCEMENT OF CHAPTER.

1-60 (a) Notwithstanding any other law, the department shall enforce

2-1 the provisions of this chapter and shall supervise all motor fuel
 2-2 metering devices sold or offered for sale in this state. The
 2-3 department may purchase apparatus as necessary for the
 2-4 administration of this chapter.

2-5 (b) To the extent this chapter conflicts with Chapter 13,
 2-6 Agriculture Code, with regard to motor fuel metering devices, this
 2-7 chapter controls.

2-8 (c) The department may contract with one or more license
 2-9 holders under Subchapter D of this chapter or Subchapter I, Chapter
 2-10 13, Agriculture Code, to perform the department's duties under this
 2-11 chapter related to motor fuel metering devices. A reference in this
 2-12 chapter to the commission or department in the context of a
 2-13 contracted service means the contractor.

2-14 Sec. 2310.003. CIVIL PENALTY; INJUNCTION. (a) A person
 2-15 who violates Subchapter B or C or a rule adopted under Subchapter B
 2-16 or C is liable to the state for a civil penalty not to exceed \$500
 2-17 for each violation. Each day a violation continues may be
 2-18 considered a separate violation for purposes of a civil penalty
 2-19 assessment.

2-20 (b) On request of the department, the attorney general or
 2-21 the county attorney or district attorney of the county in which the
 2-22 violation is alleged to have occurred shall file suit to collect the
 2-23 penalty.

2-24 (c) A civil penalty collected under this section shall be
 2-25 deposited in the state treasury to the credit of the general revenue
 2-26 fund. A civil penalty recovered in a suit first instituted by one
 2-27 or more local governments under this section shall be equally
 2-28 divided between this state and each local government that first
 2-29 instituted the suit, with 50 percent of the recovery deposited to
 2-30 the credit of the general revenue fund and the other 50 percent
 2-31 distributed equally to each local government.

2-32 (d) The department is entitled to appropriate injunctive
 2-33 relief to prevent or abate a violation of this chapter or a rule
 2-34 adopted under this chapter. On request of the department, the
 2-35 attorney general or the county or district attorney of the county in
 2-36 which the alleged violation is threatened or is occurring shall
 2-37 file suit for the injunctive relief. Venue is in the county in
 2-38 which the alleged violation is threatened or is occurring.

2-39 (e) The department and the attorney general may each recover
 2-40 reasonable expenses incurred in obtaining injunctive relief and
 2-41 civil penalties under this section, including investigative costs,
 2-42 court costs, reasonable attorney's fees, witness fees, and
 2-43 deposition expenses. The expenses recovered by the department may
 2-44 be appropriated only to the department for the administration and
 2-45 enforcement of this chapter. The expenses recovered by the
 2-46 attorney general may be appropriated only to the attorney general.

2-47 SUBCHAPTER B. STANDARD WEIGHTS AND MEASURES FOR MOTOR FUEL

2-48 Sec. 2310.051. LEGAL STANDARDS. (a) The legal standard
 2-49 for the weight or measure of a motor fuel in this state is the
 2-50 standard weight or measure adopted and used by the government of the
 2-51 United States for that motor fuel. If the United States does not
 2-52 provide a standard weight or measure for a motor fuel, the standard
 2-53 for the motor fuel is that established by this subchapter.

2-54 (b) The commission may adopt rules for the purpose of
 2-55 administering this subchapter and bringing about uniformity
 2-56 between the standards established under this subchapter and the
 2-57 standards established by federal law.

2-58 (c) Except as otherwise provided by an express contract, a
 2-59 contract for work or sales by weight or measure of a motor fuel
 2-60 shall be construed in accordance with the standards of this
 2-61 subchapter.

2-62 (d) The standards of this subchapter shall be the guide for
 2-63 making any adjustment of weighing or measuring devices under the
 2-64 law of this state.

2-65 Sec. 2310.052. STANDARD FOR LIQUID MOTOR FUEL. (a) This
 2-66 section does not apply to compressed natural gas or liquefied
 2-67 natural gas.

2-68 (b) The standard unit of measure of capacity for liquid
 2-69 motor fuels is the gallon.

3-1 (c) Except as provided by Subsections (d) and (e), all other
 3-2 measures of capacity for liquid motor fuels are derived from the
 3-3 gallon by continual division by two, making half gallons, quarts,
 3-4 pints, half pints, and gills.

3-5 (d) A mechanism or machine that is adapted to measure and
 3-6 deliver liquid motor fuels by volume and that indicates fractional
 3-7 parts of a gallon shall indicate the fractional parts either in
 3-8 terms of binary submultiple subdivisions or in terms of tenths of a
 3-9 gallon.

3-10 (e) For purposes of the retail sale of motor fuel only, the
 3-11 liquid gallon contains 231 cubic inches without adjustment based on
 3-12 the temperature of the liquid.

3-13 Sec. 2310.053. EXEMPTION OF CERTAIN MOTOR FUEL METERING
 3-14 DEVICES. (a) The commission by rule may exempt a motor fuel
 3-15 metering device from a requirement established by this chapter if
 3-16 the commission determines that imposing or enforcing the
 3-17 requirement:

3-18 (1) is not cost-effective for the department;
 3-19 (2) is not feasible with current resources or
 3-20 standards; or
 3-21 (3) will not substantially benefit or protect
 3-22 consumers.

3-23 (b) A motor fuel metering device is exempt from the
 3-24 requirements of this chapter if the motor fuel metering device is
 3-25 not used to:

3-26 (1) calculate the amount of motor fuel sold in a
 3-27 commercial transaction; or
 3-28 (2) compute the charge for service.

3-29 Sec. 2310.054. SALE OF MOTOR FUEL BY PROPER MEASURE.
 3-30 (a) Except as otherwise provided by this section, motor fuel shall
 3-31 be sold by liquid measure.

3-32 (b) Compressed natural gas and liquefied natural gas shall
 3-33 be sold by weight.

3-34 (c) A person violates this chapter if, in violation of this
 3-35 section, the person sells motor fuel by other than weight or liquid
 3-36 measure.

3-37 Sec. 2310.055. PRICE ADVERTISEMENT; MISREPRESENTATION OF
 3-38 PRICE OR QUANTITY. (a) If a price sign, card, tag, poster, or
 3-39 other advertisement displaying the price of motor fuel includes a
 3-40 whole number and a fraction, the figures in the fraction shall be of
 3-41 proportionate size and legibility to those of the whole number.

3-42 (b) A person violates this chapter if the person:
 3-43 (1) misrepresents the price of motor fuel sold or
 3-44 offered or exposed for sale; or
 3-45 (2) represents the price or the quantity of motor fuel
 3-46 sold or offered or exposed for sale in a manner intended or tending
 3-47 to mislead or deceive an actual or prospective customer.

3-48 Sec. 2310.056. FALSE REPRESENTATION OF MOTOR FUEL QUANTITY.
 3-49 A person violates this chapter if the person or the person's
 3-50 representative or agent:

3-51 (1) sells or offers or exposes for sale a quantity of
 3-52 motor fuel that is less than the quantity the person represents; or
 3-53 (2) as a buyer furnishing the weight or measure of a
 3-54 motor fuel by which the amount of the motor fuel is determined,
 3-55 takes or attempts to take more than the quantity the person
 3-56 represents.

3-57 Sec. 2310.057. USE OF INCORRECT MOTOR FUEL METERING DEVICE.
 3-58 (a) A person commits an offense if the person or the person's
 3-59 representative or agent knowingly uses an incorrect weighing or
 3-60 measuring device in:

3-61 (1) buying or selling motor fuel;
 3-62 (2) computing a charge for services rendered on the
 3-63 basis of weight or measure; or
 3-64 (3) determining the weight or measure of motor fuel,
 3-65 if a charge is made for the determination.

3-66 (b) For the purpose of this section, a weighing or measuring
 3-67 device is incorrect if it:

3-68 (1) does not conform as closely as practicable to the
 3-69 official standards;

4-1 (2) is not accurate;
 4-2 (3) is of a construction that is not reasonably
 4-3 permanent in adjustment or does not correctly repeat its
 4-4 indications;

4-5 (4) facilitates the perpetration of fraud; or
 4-6 (5) does not conform to the specifications and
 4-7 tolerances established by the department under Section 2310.108.

4-8 Sec. 2310.058. SALE OF MOTOR FUEL IN VIOLATION OF
 4-9 SUBCHAPTER. A person violates this chapter if the person or the
 4-10 person's representative or agent sells or keeps, offers, or exposes
 4-11 for sale motor fuel in violation of this subchapter.

4-12 Sec. 2310.059. TESTING BY DEPARTMENT. (a) The department
 4-13 shall from time to time weigh or measure an amount of motor fuel
 4-14 that is kept or offered for sale, sold, or in the process of
 4-15 delivery, in order to determine:

4-16 (1) if the motor fuel is of the amount or quantity
 4-17 represented; or

4-18 (2) if the motor fuel is being offered for sale or sold
 4-19 in accordance with law.

4-20 (b) If the department finds that any lot of motor fuel
 4-21 contains less of the motor fuel than the amount represented, the
 4-22 department may seize the motor fuel as evidence.

4-23 (c) A person commits an offense if the person or the
 4-24 person's employee or agent refuses to exhibit motor fuel being sold
 4-25 or offered for sale at a given weight or quantity, or ordinarily
 4-26 sold in that manner, to the department for testing and proving as to
 4-27 quantity.

4-28 Sec. 2310.060. STOP-SALE ORDER. (a) If the department has
 4-29 reason to believe that motor fuel is being sold or kept, offered, or
 4-30 exposed for sale in violation of this chapter or that motor fuel is
 4-31 being sold or offered for sale by or through the use of a motor fuel
 4-32 metering device that is in violation of this chapter, the
 4-33 department may issue and enforce a written or printed order to stop
 4-34 the sale of the motor fuel. The department shall present the order
 4-35 to the owner or custodian of the motor fuel or seller of the motor
 4-36 fuel. The person receiving the order may not sell the motor fuel or
 4-37 provide the service until discharged by a court under Subsection
 4-38 (b) or until the commission finds that the motor fuel or motor fuel
 4-39 metering device is in compliance with this chapter.

4-40 (b) The owner or custodian of motor fuel or a person selling
 4-41 or offering for sale a service prohibited from sale by an order of
 4-42 the department is entitled to sue in a court where the motor fuel is
 4-43 found or the service is being sold or offered for sale for a
 4-44 judgment as to the justification of the order and for the discharge
 4-45 of the motor fuel in accordance with the findings of the court.

4-46 (c) This section does not limit the right of the department
 4-47 to proceed as authorized by other sections of this code.

4-48 Sec. 2310.061. PENALTIES; DEFENSE. (a) An offense under
 4-49 Section 2310.057 or 2310.059 is a Class C misdemeanor.

4-50 (b) It is a defense to prosecution or to the imposition of a
 4-51 civil or administrative penalty for a violation of Section 2310.057
 4-52 or 2310.059 that a discrepancy between the actual weight or volume
 4-53 at the time of sale to a consumer or a discrepancy between the fill
 4-54 of a container and the capacity of the container is due to
 4-55 unavoidable leakage, shrinkage, evaporation, waste, or causes
 4-56 beyond the control of the seller acting in good faith.

4-57 SUBCHAPTER C. INSPECTION AND REGISTRATION OF MOTOR FUEL METERING
 4-58 DEVICES

4-59 Sec. 2310.101. AUTHORITY TO INSPECT. (a) If the
 4-60 department has reason to believe that a motor fuel metering device
 4-61 is being used for a commercial transaction and the device is not
 4-62 registered with the department, the department may inspect the
 4-63 device and the records of the owner, operator, or user of the device
 4-64 that relate to use of the device to determine whether the device is
 4-65 in compliance with this chapter.

4-66 (b) The department has reason to believe a motor fuel
 4-67 metering device is being used for a commercial transaction if:

4-68 (1) the motor fuel metering device is found in close
 4-69 proximity to motor fuel being sold or offered for sale by weight or

5-1 measure and the device appears to be under the control or in the
 5-2 possession of the person selling the motor fuel or offering the
 5-3 motor fuel for sale; or

5-4 (2) other available evidence is sufficient for a
 5-5 prudent person to believe that the motor fuel metering device is
 5-6 being used for a commercial transaction.

5-7 Sec. 2310.105. REPAIR OR DESTRUCTION OF INCORRECT MOTOR
 5-8 FUEL METERING DEVICES. (a) If, in the judgment of the department,
 5-9 a motor fuel metering device found to be incorrect is not capable of
 5-10 being repaired, the department may condemn, seize, and destroy the
 5-11 device.

5-12 (b) If, in the judgment of the department, an incorrect
 5-13 motor fuel metering device is capable of being repaired, the
 5-14 department shall place on the device a tag or other mark with the
 5-15 words "Out of Order." The owner or user of the motor fuel metering
 5-16 device may not use it until it is reinspected and released for use
 5-17 by the department or inspected and released for use in any other
 5-18 manner authorized by department rule.

5-19 (c) The owner, operator, or user of a motor fuel metering
 5-20 device may not destroy, replace, or otherwise dispose of a device
 5-21 declared to be incorrect or condemned under this section except as
 5-22 provided by department rule.

5-23 Sec. 2310.106. TESTS FOR STATE INSTITUTIONS. As requested
 5-24 by the comptroller or the governing body of a state institution, the
 5-25 department shall test each motor fuel metering device used by a
 5-26 state institution for any purpose, including a motor fuel metering
 5-27 device used in checking the receipt and distribution of supplies.
 5-28 The department shall report results of the test to the chair of the
 5-29 governing body of the institution.

5-30 Sec. 2310.107. STANDARDS USED IN INSPECTION. (a) The
 5-31 standards of weights and measures maintained by the department and
 5-32 certified by the National Institute of Standards and Technology or
 5-33 a metrology laboratory certified by the National Institute of
 5-34 Standards and Technology are the state's standards by which all
 5-35 state and local standards of weights and measures for motor fuel are
 5-36 tried, authenticated, proved, and certified.

5-37 (b) The department shall maintain the primary standards for
 5-38 motor fuel in a safe and suitable place in the offices of the
 5-39 department. The standards may not be moved except for repairs or
 5-40 certification. The department shall maintain the standards in good
 5-41 order and shall submit them to the National Institute of Standards
 5-42 and Technology or to a laboratory approved by the National
 5-43 Institute of Standards and Technology for certification at least
 5-44 once each 10 years.

5-45 (c) In addition to the standards for motor fuel kept by the
 5-46 state, the department shall maintain a complete set of copies of the
 5-47 original standards for use in adjusting local standards or in the
 5-48 performance of other official duties. The department may purchase
 5-49 additional sets of standards as necessary for use by a department
 5-50 inspector or other department personnel.

5-51 (d) At the request of a municipality, the department shall
 5-52 furnish the municipality with copies of the state's standards for
 5-53 motor fuel or test and approve other standards acquired by the
 5-54 municipality. The municipality shall reimburse the state for the
 5-55 actual cost of the standards furnished, plus the costs of freight
 5-56 and certification. All standards furnished to or tested for a
 5-57 municipality shall be true and correct and certified by the
 5-58 department. The copies used by a municipality may be of any
 5-59 suitable material or construction that the municipality requests,
 5-60 subject to approval by the department.

5-61 (e) The department, or a metrology laboratory certified by
 5-62 the National Institute of Standards and Technology and approved by
 5-63 the department, shall inspect and correct the standards for motor
 5-64 fuel used by a department inspector, another department employee,
 5-65 or an individual or business licensed by the department to perform
 5-66 device maintenance activities under Subchapter D, or an individual
 5-67 or business licensed under Subchapter I, Chapter 13, Agriculture
 5-68 Code.

5-69 (f) The commission may adopt rules to regulate the frequency

6-1 and place of inspection and correction of the standards for motor
 6-2 fuel used by an individual or business licensed by the department to
 6-3 perform device maintenance activities under Subchapter D or an
 6-4 individual or business licensed under Subchapter I, Chapter 13,
 6-5 Agriculture Code.

6-6 (g) The department may inspect any standard for motor fuel
 6-7 used by an individual or business licensed by the department to
 6-8 perform device maintenance activities described by Subchapter D or
 6-9 an individual or business licensed under Subchapter I, Chapter 13,
 6-10 Agriculture Code, if the department has reason to believe a
 6-11 standard is no longer in compliance with this chapter.

6-12 (h) The department shall keep a record of the inspection and
 6-13 character of standards for motor fuel inspected under this section.

6-14 Sec. 2310.108. TOLERANCES. Specifications and tolerances
 6-15 for motor fuel metering devices shall be the same as those
 6-16 recommended by the National Institute of Standards and Technology.

6-17 Sec. 2310.109. FEES. (a) The commission by rule shall
 6-18 establish fees in amounts reasonable and necessary to cover the
 6-19 cost of administering this chapter.

6-20 (b) Notwithstanding any other law, the commission may not in
 6-21 a state fiscal biennium increase a fee under Subsection (a) for a
 6-22 motor fuel metering device by an amount that exceeds 10 percent of
 6-23 the amount of the fee at the end of the preceding state fiscal
 6-24 biennium.

6-25 Sec. 2310.110. REFUSING TO ALLOW TEST OF MOTOR FUEL
 6-26 METERING DEVICE. (a) A person commits an offense if the person
 6-27 refuses to allow a motor fuel metering device under the person's
 6-28 control or in the person's possession to be inspected, tested, or
 6-29 examined by the department, and the inspection, test, or
 6-30 examination is required or authorized by this chapter.

6-31 (b) A person commits an offense if the person hinders or
 6-32 obstructs in any way the department, a department inspector, or
 6-33 other department employee in the performance of official duties.

6-34 (c) A person commits an offense if the person removes or
 6-35 obliterates a tag or device placed or required by the department to
 6-36 be placed on a motor fuel metering device under this chapter.

6-37 Sec. 2310.111. SALE OR USE OF INCORRECT MOTOR FUEL METERING
 6-38 DEVICE. (a) The department may condemn and prohibit the sale or
 6-39 distribution of any incorrect motor fuel metering device that is
 6-40 sold, offered for sale, or about to be sold in this state.

6-41 (b) A person commits an offense if the person or the
 6-42 person's representative or agent knowingly:

6-43 (1) offers or exposes for sale, hire, or award or sells
 6-44 an incorrect motor fuel metering device;

6-45 (2) possesses an incorrect motor fuel metering device;
 6-46 or

6-47 (3) sells, offers for sale, uses, or possesses for the
 6-48 purpose of sale or use a device or instrument to be used to falsify
 6-49 or intended to falsify a weight or measure for motor fuel.

6-50 Sec. 2310.112. DISPOSING OF CONDEMNED MOTOR FUEL METERING
 6-51 DEVICE. A person commits an offense if the person or the person's
 6-52 representative or agent disposes of a motor fuel metering device
 6-53 condemned under Section 2310.105 or 2310.111 in a manner contrary
 6-54 to those sections.

6-55 Sec. 2310.113. PENALTIES. An offense under Section
 6-56 2310.110, 2310.111, or 2310.112 is a Class C misdemeanor.

6-57 SUBCHAPTER D. LICENSING OF MOTOR FUEL METERING DEVICE SERVICE
 6-58 TECHNICIANS AND MOTOR FUEL METERING DEVICE SERVICE COMPANIES

6-59 Sec. 2310.151. DEFINITIONS. In this subchapter:

6-60 (1) "Device maintenance activities" means activities
 6-61 described by Section 2310.152.

6-62 (2) "License holder" means a person who holds a motor
 6-63 fuel metering device service company license or a motor fuel
 6-64 metering device service technician license.

6-65 (3) "Service company" means a person who holds a motor
 6-66 fuel metering device service company license issued by the
 6-67 department under this subchapter.

6-68 (4) "Service technician" means an individual who holds
 6-69 a motor fuel metering device service technician license issued by

7-1 the department under this subchapter.

7-2 Sec. 2310.152. DEVICE MAINTENANCE ACTIVITIES. A person
 7-3 performs device maintenance activities if the person or the
 7-4 person's employee:

7-5 (1) places a motor fuel metering device in service;

7-6 (2) installs, calibrates, inspects, tests, or repairs
 7-7 a motor fuel metering device; or

7-8 (3) removes an out-of-order tag, stop-sale order,
 7-9 security seal, lock, condemnation notice, or other form of use
 7-10 prohibition placed on a motor fuel metering device by the
 7-11 department.

7-12 Sec. 2310.153. POWERS AND DUTIES OF DEPARTMENT. (a) To
 7-13 verify compliance with licensing requirements, trade practices,
 7-14 department rules, and this chapter, the department may periodically
 7-15 or in response to a complaint or previous violation inspect an
 7-16 applicant's or license holder's:

7-17 (1) facilities;

7-18 (2) inspecting and testing equipment and procedures;

7-19 (3) repair and calibration equipment, standards, and
 7-20 procedures;

7-21 (4) transportation equipment; and

7-22 (5) invoices, work orders, and other records related
 7-23 to device maintenance activities.

7-24 (b) The department may periodically or in response to a
 7-25 complaint or previous violation monitor and inspect or test motor
 7-26 fuel metering devices that have been inspected and tested by a
 7-27 license holder and any standards used by the license holder during
 7-28 an inspection or test.

7-29 (c) The commission by rule may adopt additional
 7-30 requirements for the issuance of a license and for the denial of an
 7-31 application for a license or renewal of a license. Rules adopted by
 7-32 the commission under this subsection must be designed to protect
 7-33 the public health, safety, and welfare and ensure the proper
 7-34 inspection, testing, and operation of motor fuel metering devices.

7-35 (d) The commission may adopt other rules necessary for the
 7-36 regulation of device maintenance activities, for the proper
 7-37 operation of motor fuel metering devices, and to protect the
 7-38 health, safety, and welfare of the public and license holders.

7-39 (e) The department may specify the date, time, and place for
 7-40 any inspection authorized by this section.

7-41 Sec. 2310.154. EXEMPTIONS FROM LICENSE REQUIREMENTS.

7-42 (a) A person is not required to hold a license issued under this
 7-43 subchapter if the person:

7-44 (1) is a department employee who is performing device
 7-45 maintenance activities in the scope of the person's duties for the
 7-46 department;

7-47 (2) is the owner or operator of a motor fuel metering
 7-48 device or an employee of the owner or operator of a motor fuel
 7-49 metering device and the person:

7-50 (A) completely removes the motor fuel metering
 7-51 device from the location at which the device was installed,
 7-52 including a device subject to an out-of-order tag, stop-sale order,
 7-53 security seal, lock, condemnation notice, or other item placed on
 7-54 the device by the department to prohibit use of the device; and

7-55 (B) notifies the department of the motor fuel
 7-56 metering device's removal not later than the 10th day after the date
 7-57 the device was removed in the manner provided by department rule;

7-58 (3) performs device maintenance activities only on a
 7-59 motor fuel metering device that is:

7-60 (A) exempt from the registration requirements of
 7-61 Section 2310.103 under department rules;

7-62 (B) exempt from the inspection requirements of
 7-63 Section 2310.102 under department rules; and

7-64 (C) not required to be inspected by other
 7-65 department rules; or

7-66 (4) is a license holder under Subchapter I, Chapter
 7-67 13, Agriculture Code.

7-68 (b) The department is not required to hold a license issued
 7-69 under this subchapter or Subchapter I, Chapter 13, Agriculture

8-1 Code.

8-2 Sec. 2310.155. SERVICE TECHNICIAN LICENSE REQUIRED. Unless
 8-3 the individual is exempt from the licensing requirement, an
 8-4 individual may not perform or offer to perform device maintenance
 8-5 activities unless the individual holds a service technician license
 8-6 issued by the department under this subchapter.

8-7 Sec. 2310.156. SERVICE COMPANY LICENSE REQUIRED.

8-8 (a) Unless the person is exempt from the license requirement, a
 8-9 person may not employ an individual who performs or offers to
 8-10 perform device maintenance activities unless the person holds a
 8-11 service company license issued by the department under this
 8-12 subchapter.

8-13 (b) Unless the individual is exempt from the licensing
 8-14 requirement, an individual may not perform or offer to perform
 8-15 device maintenance activities as a sole proprietor unless the
 8-16 individual holds a service technician license and a service company
 8-17 license issued by the department under this subchapter.

8-18 Sec. 2310.157. APPLICATION FOR LICENSE. An applicant for a
 8-19 license under this subchapter must submit to the department:

8-20 (1) an application form prescribed by the department;
 8-21 (2) any other information required by the department;

8-22 and

8-23 (3) a fee in an amount set by the department.

8-24 Sec. 2310.158. SERVICE TECHNICIAN LICENSE REQUIREMENTS.

8-25 (a) The department shall issue a license to each qualified
 8-26 applicant who applies for a service technician license.

8-27 (b) The commission by rule may require an applicant for the
 8-28 issuance or renewal of a service technician license to meet one or
 8-29 more of the following requirements:

8-30 (1) provide to the department proof that the applicant
 8-31 has completed an academic, trade, or professional course of
 8-32 instruction approved by the department;

8-33 (2) pass a written test; or

8-34 (3) pass a practical skills test.

8-35 Sec. 2310.159. SERVICE COMPANY LICENSE REQUIREMENTS.

8-36 (a) The department shall issue a license to each qualified
 8-37 applicant who applies for a service company license.

8-38 (b) An applicant for the issuance or renewal of a license
 8-39 under this section must:

8-40 (1) submit to the department a certificate of
 8-41 insurance evidencing that the applicant has an insurance policy
 8-42 that meets the requirements of Section 2310.160 effective for the
 8-43 period for which the license is to be issued or renewed; and

8-44 (2) meet any other requirements provided by department
 8-45 rule.

8-46 Sec. 2310.160. INSURANCE POLICY REQUIRED FOR SERVICE
 8-47 COMPANY. A service company shall maintain at all times while the
 8-48 service company performs device maintenance activities a current
 8-49 effective operations liability insurance policy issued by an
 8-50 insurance company authorized to do business in this state or by a
 8-51 surplus lines insurer that meets the requirements of Chapter 981,
 8-52 Insurance Code, and rules adopted by the commissioner of insurance
 8-53 in an amount set by the department and based on the type of licensed
 8-54 activities to be performed.

8-55 Sec. 2310.161. TERM OF LICENSE. A license issued under this
 8-56 subchapter is valid for one year unless a different term is
 8-57 established by department rule.

8-58 Sec. 2310.162. LICENSE RENEWAL. A person licensed under
 8-59 this subchapter must periodically renew the person's license. The
 8-60 license expires unless the license holder submits an application
 8-61 for renewal accompanied by the renewal fee set by the department or
 8-62 by the late fee set by the department and meets the requirements for
 8-63 renewal.

8-64 Sec. 2310.163. PRACTICE BY LICENSE HOLDER. (a) A license
 8-65 holder shall perform device maintenance activities in compliance
 8-66 with department rules.

8-67 (b) A license holder may use only equipment approved by the
 8-68 department, as provided by department rules, when performing device
 8-69 maintenance activities.

9-1 Sec. 2310.164. CRIMINAL PENALTY. (a) A person commits an
9-2 offense if the person violates Section 2310.155 or 2310.156 or
9-3 causes another person to violate Section 2310.155 or 2310.156.

9-4 (b) An offense under Subsection (a) is a Class B
9-5 misdemeanor, unless the person has been previously convicted of an
9-6 offense under this section, in which case the offense is a Class A
9-7 misdemeanor.

9-8 SUBCHAPTER E. SALE, DELIVERY, AND QUALITY OF MOTOR FUEL

9-9 Sec. 2310.201. NOTICE OF SALE OF ALCOHOL AND FUEL MIXTURE.

9-10 (a) A dealer may not sell or offer for sale motor fuel from a motor
9-11 fuel pump supplied by a storage tank into which motor fuel, in a
9-12 mixture in which at least one percent of the mixture measured by
9-13 volume is ethanol or methanol, has been delivered within the 60-day
9-14 period preceding the date of sale or offer of sale unless the dealer
9-15 prominently displays on the pump from which the mixture is sold a
9-16 sign that complies with Subsection (b).

9-17 (b) A sign required by Subsection (a) must:

9-18 (1) be displayed on each face of the motor fuel pump on
9-19 which the price of the motor fuel mixture sold from the pump is
9-20 displayed;

9-21 (2) state "Contains Ethanol" or "Contains Methanol,"
9-22 as applicable;

9-23 (3) appear in contrasting colors with block letters at
9-24 least one-half inch high and one-fourth inch wide; and

9-25 (4) be displayed in a clear, conspicuous, and
9-26 prominent manner, visible to customers using either side of the
9-27 pump.

9-28 (c) This section does not prohibit the posting of any other
9-29 alcohol or additive information. Other alcohol or additive
9-30 information and any relevant posting are subject to regulation by
9-31 the department.

9-32 Sec. 2310.202. MINIMUM MOTOR FUEL QUALITY AND TESTING
9-33 STANDARDS. (a) The commission by rule shall adopt minimum motor
9-34 fuel quality and testing standards for motor fuel that is sold or
9-35 offered for sale in this state. The standards must comply with the
9-36 nationally recognized minimum standards established by:

9-37 (1) the American Society for Testing and Materials,
9-38 for motor fuels other than motor fuels blended with ethanol; and

9-39 (2) the National Institute of Standards and
9-40 Technology, for motor fuels blended with ethanol.

9-41 (b) The commission may adopt rules as necessary to bring
9-42 about uniformity between the standards established under this
9-43 subchapter and the nationally recognized standards described by
9-44 Subsection (a).

9-45 Sec. 2310.203. TESTING OF MOTOR FUEL QUALITY. (a) The
9-46 department or a representative of the department may collect
9-47 samples and conduct testing at any location where motor fuel is
9-48 kept, transferred, sold, or offered for sale to verify that the
9-49 motor fuel complies with the minimum standards required by Section
9-50 2310.202.

9-51 (b) The collection of samples and conducting of testing at a
9-52 dealer's location must be performed by a license holder under
9-53 Subchapter D of this chapter or Subchapter I, Chapter 13,
9-54 Agriculture Code, under contract with the dealer. The license
9-55 holder is considered a representative of the department for
9-56 purposes of this section.

9-57 (c) On arriving at a facility to conduct testing under
9-58 Subsection (a), a representative of the department shall notify the
9-59 owner or manager of the facility of the representative's presence
9-60 and purpose. The department representative shall follow the most
9-61 recent applicable procedures specified by ASTM International
9-62 Standard D4057, D4177, D5842, or D5854 for the collection,
9-63 sampling, and handling of fuel to prepare for laboratory analysis.

9-64 (d) A person commits an offense if the person refuses to
9-65 allow a department representative to collect samples or conduct
9-66 motor fuel testing under Subsection (a).

9-67 (e) An offense under Subsection (d) is a Class C
9-68 misdemeanor.

9-69 Sec. 2310.204. RULES; FEES. (a) The commission may adopt

10-1 rules consistent with this subchapter for the regulation of the
 10-2 sale of motor fuels, including motor fuels that contain ethanol and
 10-3 methanol.

10-4 (b) The commission by rule may impose a fee for testing,
 10-5 inspection, or the performance of other services provided as
 10-6 determined necessary by the commission in the administration of
 10-7 this subchapter. A fee imposed under this subsection shall be
 10-8 collected from each dealer, distributor, and supplier, as defined
 10-9 by Section 162.001, Tax Code, on a periodic basis determined by the
 10-10 commission without regard to whether the motor fuel is subject to
 10-11 regulation under this subchapter.

10-12 (c) The commission by rule shall prescribe the form for
 10-13 reporting and remitting the fees imposed under this section.

10-14 (d) Fees collected under this section may be used only to
 10-15 administer and enforce this subchapter.

10-16 Sec. 2310.205. CIVIL PENALTY. A person who sells or offers
 10-17 for sale motor fuel in violation of this subchapter or a rule
 10-18 adopted under this subchapter is liable to this state for a civil
 10-19 penalty of not less than \$200 and not more than \$2,500.

10-20 Sec. 2310.206. ADMINISTRATIVE PENALTY. The commission may
 10-21 impose an administrative penalty on a person under Subchapter F,
 10-22 Chapter 51, if the person sells or offers for sale motor fuel in
 10-23 violation of this subchapter or a rule adopted under this
 10-24 subchapter.

10-25 SECTION 2. Sections 13.1015, 13.1016, and 13.1017,
 10-26 Agriculture Code, are transferred to Subchapter C, Chapter 2310,
 10-27 Occupations Code, as added by this Act, redesignated as Sections
 10-28 2310.102, 2310.103, and 2310.104, Occupations Code, and amended to
 10-29 read as follows:

10-30 Sec. 2310.102 [~~13.1015~~]. INSPECTION OF MOTOR FUEL METERING
 10-31 DEVICES. (a) Unless a motor fuel metering device is exempt from
 10-32 the application of this section by department rule, a motor fuel
 10-33 metering device shall be inspected, tested, and calibrated for
 10-34 correctness by a license holder under Subchapter D of this chapter
 10-35 or Subchapter I, Chapter 13, Agriculture Code, at least once every
 10-36 two years if the device is:

10-37 (1) kept for sale, sold, or used by a proprietor,
 10-38 agent, lessee, or employee in proving the measure of motor fuel; or
 10-39 (2) purchased, offered, or submitted by a proprietor,
 10-40 agent, lessee, or employee for sale, hire, or award.

10-41 (b) Inspection, testing, and calibration under this section
 10-42 must be performed by a license holder under Subchapter D of this
 10-43 chapter or Subchapter I, Chapter 13, Agriculture Code, under
 10-44 contract with the operator or user of the motor fuel metering
 10-45 device.

10-46 Sec. 2310.103 [~~13.1016~~]. REQUIRED REGISTRATION OF MOTOR
 10-47 FUEL METERING DEVICES. (a) Unless a motor fuel metering device is
 10-48 exempt from the application of this section by department rule, a
 10-49 person who owns or operates a motor fuel metering device shall
 10-50 register the device with the department before using the device for
 10-51 a commercial transaction.

10-52 (b) An application for a device registration must:

10-53 (1) be submitted to the department on a form
 10-54 prescribed by the department;

10-55 (2) be accompanied by any other document or form
 10-56 required by the department;

10-57 (3) include any fees [~~the registration fee~~] required
 10-58 under Section 2310.109 [~~13.1151~~]; and

10-59 (4) include documentation of compliance with Section
 10-60 2310.102 [~~13.1015~~].

10-61 (c) A registration under this section is valid for one year
 10-62 unless a different period is established by department rule. The
 10-63 registration must be renewed at or before the end of each
 10-64 registration period and the application for renewal must include
 10-65 documentation of compliance with Section 2310.102 [~~13.1015~~].

10-66 (d) If a person fails to register or renew a registration as
 10-67 required by this section, the department may not issue a
 10-68 certificate to operate the motor fuel metering device. The
 10-69 department shall issue the certificate when the operator submits to

11-1 the department the items required by Subsection (b).

11-2 (e) The department may assess a late fee if the registration
11-3 of one or more devices located on a premises is renewed after the
11-4 end of the registration period because of a registration error,
11-5 including one or more devices not properly registered, failure to
11-6 register the correct type of device, or failure to timely register a
11-7 previously registered device. The amount of the penalty may not
11-8 exceed \$50 per device, with a maximum penalty amount of \$500 per
11-9 year for the premises.

11-10 Sec. 2310.104 [~~13.1017~~]. COMPLAINTS REGARDING MOTOR FUEL
11-11 METERING DEVICES. (a) The department shall receive complaints
11-12 regarding motor fuel metering devices.

11-13 (b) After receiving a complaint regarding a motor fuel
11-14 metering device, the department shall determine the date the device
11-15 was last inspected under Section 2310.102 [~~13.1015~~] and the number
11-16 of complaints received by the department in the previous 12 months
11-17 regarding motor fuel metering devices at the premises where the
11-18 device subject to the complaint is located.

11-19 (c) The department shall notify the person who last
11-20 registered the motor fuel metering device and take no further
11-21 action on the complaint if:

11-22 (1) the motor fuel metering device was last inspected
11-23 not more than 18 months before the date the complaint is received;
11-24 and

11-25 (2) the department received not more than two
11-26 complaints in the previous 12 months regarding motor fuel metering
11-27 devices at the premises where the device is located.

11-28 (d) The department shall notify the person who last
11-29 registered the motor fuel metering device and require the device to
11-30 be inspected by a license holder under Section 2310.102 [~~13.1015~~]
11-31 not later than one month after the notification date if:

11-32 (1) the motor fuel metering device was last inspected
11-33 more than 18 months before the date the complaint is received; or

11-34 (2) the department received at least three complaints
11-35 in the previous 12 months regarding motor fuel metering devices at
11-36 the premises where the device is located.

11-37 SECTION 3. Section 12.020(c), Agriculture Code, is amended
11-38 to read as follows:

11-39 (c) The provisions of law subject to this section and the
11-40 applicable penalty amounts are as follows:

Provision	Amount of Penalty
11-42 Chapters 13, 14A, [17] 18, 19, 41, 11-43 46, 61, 72, 73, 74, 76, 94, 95, 101, 11-44 102, 103, 125, 132, 11-45 and 134	not more than \$5,000
11-46 Subchapters A, B, and C, Chapter 71	not more than \$5,000
11-47 Chapter 14	not more than \$10,000
11-48 Chapter 1951, Occupations Code	not more than \$5,000
11-49 Chapter 153, Natural Resources 11-50 Code	not more than \$5,000
11-51 Section 91.009	not more than \$5,000.

11-52 SECTION 4. Section 13.001, Agriculture Code, is amended by
11-53 adding Subsection (c) to read as follows:

11-54 (c) In this chapter, "commodity" does not include motor
11-55 fuel.

11-56 SECTION 5. Section 13.024(b), Agriculture Code, is amended
11-57 to read as follows:

11-58 (b) Except as provided by Subsection [~~Subsections~~] (c) [~~and~~
11-59 (~~d~~)], all other measures of capacity for liquids are derived from
11-60 the gallon by continual division by two, making half gallons,
11-61 quarts, pints, half pints, and gills.

11-62 SECTION 6. Section 13.114, Agriculture Code, is amended to
11-63 read as follows:

11-64 Sec. 13.114. TOLERANCES. The department shall establish

12-1 specifications and tolerances for commercial weighing or measuring
 12-2 devices used in this state. The specifications and tolerances
 12-3 shall be similar to those recommended by the National Institute of
 12-4 Standards and Technology[, ~~except that the specifications and~~
 12-5 ~~tolerances for motor fuel metering devices shall be the same as~~
 12-6 ~~those recommended by the National Institute of Standards and~~
 12-7 ~~Technology~~].

12-8 SECTION 7. Section 162.009, Tax Code, is amended to read as
 12-9 follows:

12-10 Sec. 162.009. AUTHORITY TO STOP AND EXAMINE. To enforce
 12-11 this chapter, the comptroller or a peace officer may stop a motor
 12-12 vehicle that appears to be operating with or transporting motor
 12-13 fuel to examine the shipping document, cargo manifest, or invoices
 12-14 required to be carried, examine a license or copy of a license that
 12-15 may be required to be carried, take samples from the fuel supply or
 12-16 cargo tanks, and make any other investigation that could reasonably
 12-17 be made to determine whether the taxes have been paid or accounted
 12-18 for by a license holder or a person required to be licensed. The
 12-19 comptroller, a peace officer, an employee of the attorney general's
 12-20 office, an employee of the Texas Commission on Environmental
 12-21 Quality, or an employee of the Texas Department of Licensing and
 12-22 Regulation [~~Agriculture~~] may take samples of motor fuel from a
 12-23 storage tank or container to:

- 12-24 (1) determine if the fuel contains hazardous waste or
 12-25 is adulterated; or
- 12-26 (2) allow the comptroller to determine whether taxes
 12-27 on the fuel have been paid or accounted for to this state.

12-28 SECTION 8. Section 162.403, Tax Code, is amended to read as
 12-29 follows:

12-30 Sec. 162.403. CRIMINAL OFFENSES. Except as provided by
 12-31 Section 162.404, a person commits an offense if the person:

- 12-32 (1) refuses to stop and permit the inspection and
 12-33 examination of a motor vehicle transporting or using motor fuel on
 12-34 the demand of a peace officer or the comptroller;
- 12-35 (2) is required to hold a valid trip permit or
 12-36 interstate trucker's license, but operates a motor vehicle in this
 12-37 state without a valid trip permit or interstate trucker's license;
- 12-38 (3) transports gasoline or diesel fuel in any cargo
 12-39 tank that has a connection by pipe, tube, valve, or otherwise with
 12-40 the fuel injector or carburetor or with the fuel supply tank feeding
 12-41 the fuel injector or carburetor of the motor vehicle transporting
 12-42 the product;
- 12-43 (4) sells or delivers gasoline or diesel fuel from a
 12-44 fuel supply tank that is connected with the fuel injector or
 12-45 carburetor of a motor vehicle;
- 12-46 (5) owns or operates a motor vehicle for which reports
 12-47 or mileage records are required by this chapter without an
 12-48 operating odometer or other device in good working condition to
 12-49 record accurately the miles traveled;
- 12-50 (6) sells or delivers dyed diesel fuel for the
 12-51 operation of a motor vehicle on a public highway;
- 12-52 (7) uses dyed diesel fuel for the operation of a motor
 12-53 vehicle on a public highway except as allowed under Section
 12-54 162.235;
- 12-55 (8) refuses to permit the comptroller or the attorney
 12-56 general to inspect, examine, or audit a book or record required to
 12-57 be kept by a license holder, other user, or any person required to
 12-58 hold a license under this chapter;
- 12-59 (9) refuses to permit the comptroller or the attorney
 12-60 general to inspect or examine any plant, equipment, materials, or
 12-61 premises where motor fuel is produced, processed, blended, stored,
 12-62 sold, delivered, or used;
- 12-63 (10) refuses to permit the comptroller, the attorney
 12-64 general, an employee of either of those officials, a peace officer,
 12-65 an employee of the Texas Commission on Environmental Quality, or an
 12-66 employee of the Texas Department of Licensing and Regulation
 12-67 [~~Agriculture~~] to measure or gauge the contents of or take samples
 12-68 from a storage tank or container on premises where motor fuel is
 12-69 produced, processed, blended, stored, sold, delivered, or used;

- 13-1 (11) is a license holder, a person required to be
 13-2 licensed, or another user and fails or refuses to make or deliver to
 13-3 the comptroller a report required by this chapter to be made and
 13-4 delivered to the comptroller;
- 13-5 (12) is an importer who does not obtain an import
 13-6 verification number when required by this chapter;
- 13-7 (13) purchases motor fuel for export, on which the tax
 13-8 imposed by this chapter has not been paid, and subsequently diverts
 13-9 or causes the motor fuel to be diverted to a destination in this
 13-10 state or any other state or country other than the originally
 13-11 designated state or country without first obtaining a diversion
 13-12 number;
- 13-13 (14) conceals motor fuel with the intent of engaging
 13-14 in any conduct proscribed by this chapter or refuses to make sales
 13-15 of motor fuel on the volume-corrected basis prescribed by this
 13-16 chapter;
- 13-17 (15) refuses, while transporting motor fuel, to stop
 13-18 the motor vehicle the person is operating when called on to do so by
 13-19 a person authorized to stop the motor vehicle;
- 13-20 (16) refuses to surrender a motor vehicle and cargo
 13-21 for impoundment after being ordered to do so by a person authorized
 13-22 to impound the motor vehicle and cargo;
- 13-23 (17) mutilates, destroys, or secretes a book or record
 13-24 required by this chapter to be kept by a license holder, other user,
 13-25 or person required to hold a license under this chapter;
- 13-26 (18) is a license holder, other user, or other person
 13-27 required to hold a license under this chapter, or the agent or
 13-28 employee of one of those persons, and makes a false entry or fails
 13-29 to make an entry in the books and records required under this
 13-30 chapter to be made by the person or fails to retain a document as
 13-31 required by this chapter;
- 13-32 (19) transports in any manner motor fuel under a false
 13-33 cargo manifest or shipping document, or transports in any manner
 13-34 motor fuel to a location without delivering at the same time a
 13-35 shipping document relating to that shipment;
- 13-36 (20) engages in a motor fuel transaction that requires
 13-37 that the person have a license under this chapter without then and
 13-38 there holding the required license;
- 13-39 (21) makes and delivers to the comptroller a report
 13-40 required under this chapter to be made and delivered to the
 13-41 comptroller, if the report contains false information;
- 13-42 (22) forges, falsifies, or alters an invoice or
 13-43 shipping document prescribed by law;
- 13-44 (23) makes any statement, knowing said statement to be
 13-45 false, in a claim for a tax refund filed with the comptroller;
- 13-46 (24) furnishes to a licensed supplier or distributor a
 13-47 signed statement for purchasing diesel fuel tax-free and then uses
 13-48 the tax-free diesel fuel to operate a diesel-powered motor vehicle
 13-49 on a public highway;
- 13-50 (25) holds an aviation fuel dealer's license and makes
 13-51 a taxable sale or use of any gasoline or diesel fuel;
- 13-52 (26) fails to remit any tax funds collected or
 13-53 required to be collected by a license holder, another user, or any
 13-54 other person required to hold a license under this chapter;
- 13-55 (27) makes a sale of dyed diesel fuel tax-free into a
 13-56 storage facility of a person who:
- 13-57 (A) is not licensed as a distributor, as an
 13-58 aviation fuel dealer, or as a dyed diesel fuel bonded user; or
- 13-59 (B) does not furnish to the licensed supplier or
 13-60 distributor a signed statement prescribed in Section 162.206;
- 13-61 (28) makes a sale of gasoline tax-free to any person
 13-62 who is not licensed as an aviation fuel dealer;
- 13-63 (29) purchases any motor fuel tax-free when not
 13-64 authorized to make a tax-free purchase under this chapter;
- 13-65 (30) purchases motor fuel with the intent to evade any
 13-66 tax imposed by this chapter or accepts a delivery of motor fuel by
 13-67 any means and does not at the same time accept or receive a shipping
 13-68 document relating to the delivery;
- 13-69 (31) transports motor fuel for which a cargo manifest

14-1 or shipping document is required to be carried without possessing
 14-2 or exhibiting on demand by an officer authorized to make the demand
 14-3 a cargo manifest or shipping document containing the information
 14-4 required to be shown on the manifest or shipping document;

14-5 (32) imports, sells, uses, blends, distributes, or
 14-6 stores motor fuel within this state on which the taxes imposed by
 14-7 this chapter are owed but have not been first paid to or reported by
 14-8 a license holder, another user, or any other person required to hold
 14-9 a license under this chapter;

14-10 (33) blends products together to produce a blended
 14-11 fuel that is offered for sale, sold, or used and that expands the
 14-12 volume of the original product to evade paying applicable motor
 14-13 fuel taxes;

14-14 (34) evades or attempts to evade in any manner a tax
 14-15 imposed on motor fuel by this chapter;

14-16 (35) delivers compressed natural gas or liquefied
 14-17 natural gas into the fuel supply tank of a motor vehicle and the
 14-18 person does not hold a valid compressed natural gas and liquefied
 14-19 natural gas dealer's license; or

14-20 (36) makes a tax-free delivery of compressed natural
 14-21 gas or liquefied natural gas into the fuel supply tank of a motor
 14-22 vehicle, unless the delivery is exempt from tax under Section
 14-23 162.356.

14-24 SECTION 9. The following provisions of the Agriculture Code
 14-25 are repealed:

- 14-26 (1) Section 13.001(a)(1-a);
- 14-27 (2) Section 13.024(d);
- 14-28 (3) Section 13.029(b);
- 14-29 (4) Section 13.101(e);
- 14-30 (5) Section 13.1011(e);
- 14-31 (6) Section 13.1151(b); and
- 14-32 (7) Chapter 17.

14-33 SECTION 10. (a) All rules, fees, policies, procedures,
 14-34 decisions, and forms of the commissioner of agriculture or the
 14-35 Department of Agriculture that relate to a program or activity
 14-36 transferred under this Act and that are in effect on the effective
 14-37 date of the transfer remain in effect until changed by the Texas
 14-38 Commission of Licensing and Regulation.

14-39 (b) A license, permit, certificate of registration, or
 14-40 other authorization issued by the Department of Agriculture for a
 14-41 program or activity transferred under this Act is continued in
 14-42 effect as a license, permit, certificate, or other authorization of
 14-43 the Texas Department of Licensing and Regulation after the
 14-44 effective date of the transfer.

14-45 (c) A complaint, investigation, contested case, or other
 14-46 proceeding before the commissioner of agriculture, the Department
 14-47 of Agriculture, or the State Office of Administrative Hearings
 14-48 relating to a program or activity transferred under this Act that is
 14-49 pending on the effective date of the transfer is transferred
 14-50 without change in status to the Texas Commission of Licensing and
 14-51 Regulation or Texas Department of Licensing and Regulation, as
 14-52 appropriate.

14-53 (d) All money, contracts, leases, property, records, and
 14-54 obligations of the Department of Agriculture relating to a program
 14-55 or activity transferred under this Act are transferred to the Texas
 14-56 Department of Licensing and Regulation.

14-57 (e) The unexpended and unobligated balance of any money
 14-58 appropriated by the legislature relating to a program or activity
 14-59 transferred under this Act is transferred to the Texas Department
 14-60 of Licensing and Regulation.

14-61 (f) Unless the context indicates otherwise, a reference in
 14-62 law or administrative rule to the commissioner of agriculture or
 14-63 the Department of Agriculture with respect to a program or activity
 14-64 transferred under this Act means the Texas Commission of Licensing
 14-65 and Regulation or Texas Department of Licensing and Regulation, as
 14-66 appropriate.

14-67 SECTION 11. (a) As soon as practicable after the effective
 14-68 date of this Act, the Department of Agriculture and the Texas
 14-69 Department of Licensing and Regulation shall adopt a transition

15-1 plan to provide for the orderly transfer of powers, duties,
15-2 functions, programs, and activities under this Act. The transition
15-3 plan must provide for the transfer to be completed not later than
15-4 September 1, 2020.

15-5 (b) The Department of Agriculture shall provide the Texas
15-6 Department of Licensing and Regulation with access to any systems,
15-7 facilities, or information necessary for the Texas Department of
15-8 Licensing and Regulation to accept a program or activity
15-9 transferred under this Act.

15-10 (c) The Texas Department of Licensing and Regulation may
15-11 establish and lead a stakeholder workgroup to provide input,
15-12 advice, and recommendations to the Department of Agriculture and
15-13 Texas Department of Licensing and Regulation on the orderly
15-14 transfer of powers, duties, functions, programs, and activities
15-15 under this Act. The Texas Department of Licensing and Regulation
15-16 shall establish the size, composition, and scope of the stakeholder
15-17 workgroup.

15-18 (d) On the date specified in the transition plan required
15-19 under Subsection (a) of this section for the transfer of a program
15-20 or activity transferred by this Act to the Texas Department of
15-21 Licensing and Regulation, all full-time equivalent employee
15-22 positions at the Department of Agriculture that directly and
15-23 indirectly concern the administration or enforcement of the program
15-24 or activity being transferred become positions at the Texas
15-25 Department of Licensing and Regulation. The Texas Department of
15-26 Licensing and Regulation shall post the positions for hiring and,
15-27 when filling the positions, shall give consideration to, but is not
15-28 required to hire, an applicant who, immediately before the date of
15-29 the transfer, was an employee at the Department of Agriculture
15-30 involved in administering or enforcing the transferred program or
15-31 activity.

15-32 (e) Subsection (c) of this section and this subsection
15-33 expire October 1, 2020.

15-34 SECTION 12. (a) Except as provided by Subsection (b) of
15-35 this section, this Act takes effect September 1, 2020.

15-36 (b) Section 11 of this Act takes effect September 1, 2019.

15-37

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